

REMARKSInterview request

Applicants respectfully request a telephonic interview after the Examiner has reviewed the instant RCE response and amendment. Applicants request the Examiner call Applicants' representative at 858 720 5133.

Status of the Claims*Pending claims*

Claims 1, 2, 4 to 9, 14 to 16, 18 to 20, 22 to 27, 29, 31, 32, 35 to 39, 44 to 55, and 60 to 74 are pending.

Claims Allowed

Applicants thank the Examiner for finding that claims 1, 2, 4 to 9, 14, 24 to 27, 29, 37 to 39, 53 to 55, 62 to 64, 69 and 71, are allowable.

Claims canceled and added in the instant amendment

Claims 18, 22, 32, 35 and 36, are canceled without prejudice or disclaimer; and new claims 75 to 80, are added. Thus, after entry of the instant amendment claims 1, 2, 4 to 9, 14 to 16, 19 to 20, 23 to 27, 29, 31, 37 to 39, 44 to 55, and 60 to 80, will be pending and under consideration.

Outstanding Rejections and Objections to the claims

Claims 19, 35 and 36 were objected to. Claims 20, 45 to 48, 49 to 52, 65 to 67, and 72 to 74, are rejected under 35 U.S.C. §112, second paragraph. Claims 1, 2, 4 to 9, 14 to 16, 18 to 20, 22 to 32 and 34 to 59, are rejected under 35 U.S.C. §112, first paragraph. Claim 18 is rejected under 35 U.S.C. §112, first paragraph, for allegedly containing "new matter". Claim 22 is rejected under 35 U.S.C. §112, first paragraph, written description requirement. Claims 15, 16, 31, 32, 44 to 52, 60, 61, 68, 70 and 72, are rejected under 35 U.S.C. §112, first paragraph.

Applicants respectfully traverse all outstanding objections to and rejection of the claims.

Support for the claim amendments

The specification sets forth an extensive description of the invention in the new and amended claims. For example, support for claims drawn to enzymatically active fragments of

enzymes of the invention can be found, inter alia, in the second paragraph of page 3, of WO 97/44361 (the publication of PCT/US97/08793). Accordingly, no new matter has been added by the instant amendments.

Informal Objections to the claims

The Office requested Applicants to claim polypeptides and nucleic acids separately, for example, as in pending claims 63 and 64; please see lines 12 to 17, of the “Detailed Action” section of page 2, of the OA. Applicants endeavored to address this issue in this amendment.

Objections to the claims

Claims 19, 35 and 36 were objected to; please see the paragraph spanning pages 2 to 3, of the OA. The instant amendment endeavors to address these issues.

Issues under 35 U.S.C. §112, second paragraph

Claims 20, 45 to 48, 49 to 52, 65 to 67, and 72 to 74, are rejected under 35 U.S.C. §112, second paragraph, for reasons set forth in detail on pages 3 to 4, of the OA.

Applicants thank the Examiner for recommending clarifying amendments. The instant amendment endeavors to address these issues.

In light of the instant amendment, Applicants respectfully submit that the rejection under section 112, second paragraph, can be properly withdrawn.

Issues under 35 U.S.C. §112, first paragraph, new matter

Claim 18 is rejected under 35 U.S.C. §112, first paragraph, for allegedly containing “new matter”, as discussed in detail on pages 4 to 5, of the OA. The instant amendment endeavors to address this issue.

In light of the instant amendment, Applicants respectfully submit that the “new matter” rejection under section 112, first paragraph, can be properly withdrawn.

Issues under 35 U.S.C. §112, first paragraph, written description

Claim 22 is rejected under 35 U.S.C. §112, first paragraph, written description requirement, as discussed in detail on pages 5 to 6, of the OA. The instant amendment endeavors to address this issue.

In light of the instant amendment, Applicants respectfully submit that the written description rejection under section 112, first paragraph, can be properly withdrawn.

Issues under 35 U.S.C. §112, first paragraph, enablement requirement

Claims 15, 16, 31, 32, 44 to 52, 60, 61, 68, 70 and 72, are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement of section 112, first paragraph, as set forth in detail on pages 6 to 12.

The Office did state that the specification does enable, inter alia, an endoglucanase having the amino acid sequence of SEQ ID NO:46, or a polypeptide having 95% sequence identity to SEQ ID NO:46 and having endoglucanase activity, etc. as set forth in detail on page 6, in the paragraph spanning pages 6 to 7, of the OA.

However, the Office alleged that the specification does not reasonably enable, inter alia, any of the several claimed genera of polypeptides or polynucleotides having, inter alia, at least 90% sequence identity to an exemplary sequence of the invention (SEQ ID NO:45/46); see, e.g., line 1, page 7, to page 12, of the OA.

While Applicants respectfully maintain that the specification enabled the skilled artisan at the time of the invention to identify, and make and use, any of the several claimed genus of polypeptides or polynucleotides having at least 90% sequence identity to SEQ ID NO:45/46 – and in support have provided argument, evidence and expert declaration in previous responses, all of which are expressly incorporated herein, only to expedite prosecution and allowance of this application, in this amendment Applicants have narrowed the claimed genus of polypeptides and polynucleotides to those having at least 95% sequence identity to SEQ ID NO:45/46.

In light of these responses and the instant amendment, Applicants respectfully submit that the enablement rejection under section 112, first paragraph, can be properly withdrawn.

CONCLUSION

In view of the foregoing amendment and remarks, Applicants respectfully aver that the Examiner can properly withdraw the objections to and rejections of the amended claims under 35 U.S.C. §112, first and second paragraphs. In view of the above, claims in this application after entry of the instant amendment are believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 564462000502. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

As noted above, Applicants have requested a telephone conference with the undersigned representative to expedite prosecution of this application. After the Examiner has reviewed the instant response and amendment, please telephone the undersigned at 858 720 5133.

Dated: November 20, 2007

Respectfully submitted,

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